

## Message Text

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ACTION EB-11

INFO OCT-01 ARA-16 IO-14 ISO-00 NSC-07 NSCE-00 SSO-00 SS-20

L-03 OMB-01 TAR-02 SP-03 SWF-02 AGR-20 AID-20 CIAE-00

COME-00 INR-10 LAB-06 NSAE-00 OIC-04 RSC-01 SIL-01

STR-08 CIEP-02 CEA-02 DRC-01 FTC-01 AF-10 EA-11

EUR-25 NEA-14 FEAE-00 PM-07 PA-04 PRS-01 USIE-00

INRE-00 /228 W

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FM AMEMBASSY MEXICO

TO SECSTATE WASHDC IMMEDIATE 2114

US TREASURY DEPT WASHDC

INFO USUN NEW YORK 690

US MISSION GENEVA 376

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E.O. 11652: N/A

TAGS: EGEN, UNCTAD

SUBJECT: UNCTAD CHARTER OF ECONOMIC RIGHTS AND DUTIES

TREASURY PASS BRADFIELD

REF: STATE 125022 (A) MEXICO 4285 (B)

1. GREATLY APPRECIATE YOUR SPEEDY AND POSITIVE RESPONSE CONTAINED  
REFTEL. A.

2. MNCS: GROUP B MET IN MORNING TO CONSIDER PARA ON MNCS. WE  
STATED THE TERMS OF AUTHORITY REQUESTED BUT AT THAT TIME NOT  
RECEIVED FROM WASHINGTON. CANADIANS SAID THAT THEY HAD BEEN  
THINKING ON SAME LINES, AND PROPOSED TO PUT FORWARD FOLLOWING  
LANGUAGE: QUOTE EVERY STATE HAS THE RIGHT TO REGULATE AND SUPERVISE  
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TRANSNATIONAL CORPORATIONS OPERATING WITHIN ITS NATIONAL

JURISDICTION BY TAKING MEASURES TO ENSURE THAT SUCH CORPORATIONS COMPLY FULLY WITH ITS LAWS, RULES AND REGULATIONS. IN EXERCISING THIS RIGHT, STATE SHOULD

(A) ENSURE THAT TRANSNATIONAL CORPORATIONS ARE TREATED EQUITABLY AND EQUALLY, AVOIDING ARBITRARY MEASURES,

(B) NOT DISCRIMINATE AMONG SUCH CORPORATION ON THE GROUND OF THEIR NATIONALITY, AND

(C) TAKE ACCOUNT OF RELEVANT INTERNATIONAL OBLIGATIONS. UNQUOTE

3. ALL OF GROUP B MEMBERS THAT SPOKE EXCEPT AUSTRALIA INDICATED THAT THEY COULD SUPPORT SUBSTANCE OF CANADIAN AND THE POSSIBLE US PROPOSALS. IT WAS AGREED THAT IT WOULD MAKE TACTICAL SENSE FOR CANADA TO ADVANCE ITS TEXT, WITH CHANGE SUGGESTED BY USDEL OF SUBSTITUTING "OBSERVE" FOR "TAKE ACCOUNT OF" IN SUBPARA (C). CANADA DID SO IMMEDIATELY ON OPENING OF SESSION OF NEGOTIATING GROUP, FEARING THAT IF IT WERE NOT FIRST, ALGERIA MIGHT WITHDRAW ITS LANGUAGE. CANADIAN PROPOSAL WHEN MADE INSERTED THE LDC WORDS " IN THE INTEREST OF ITS NATIONAL ECONOMY AND" AFTER" BY TAKING MEASURES".

4. CANADIAN PROPOSAL ENCOUNTERED MIXED RECEPTION. CRITICISM FOCUSED PARTICULARLY ON CONCEPT OF "ARBITRARY", WHICH USDEL EXPOUNDED FULLY BUT WHICH CANADIANS INDICATED THAT THEY MIGHT DROP IN VIEW OF REFERENCE TO EQUITABLE TREATMENT. WHILE IN SESSION YUGOSLAVS TOOK LEAD IN OPPOSING THE CANADIAN TEXT, AND IN PRIVATE DESCRIBED ALGERIAN PROPOSAL AS A "MISTAKE", USDEL INFORMED THAT MEXICANS HAD INDICATED THAT THEY THOUGHT CANADIAN PROPOSAL MIGHT BE ACCEPTABLE IF ITS REFERENCE TO "AVOIDING ARBITRARY MEASURES" WERE TO BE DELETED. HOWEVER, GROUP OF 77 HAS NOT YET MET TO CAUCUS ON EITHER CANADIAN PROPOSAL OR THAT OF ALGERIA. ALGERIA, TO OUR GRATIFICATION, DID NOT WITHDRAW ITS PROPOSAL.

5. FOR OUR PART, WE INDICATED WILLINGNESS TO CONSIDER CANADIAN PROPOSAL AS STEP IN RIGHT DIRECTION, EVEN IF IT DID NOT GO FAR ENOUGH. WE EMPHASIZED THAT WE DID NOT FIND CANADIAN REFERENCE TO "RELEVANT INTERNATIONAL OBLIGATIONS" EQUIVALENT TO INTERNATIONAL LAW BUT WE DID NOT REJECT IT. FYI; NATURALLY WE WOULD GRAB IT IF OFFERED. LIMITED OFFICIAL USE

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6. FURTHER CONSIDERATION OF PARA ON MNCS PUT OFF FOR TIME BEING. WHEN IT REOPENS, WE SHALL PUT FORWARD AS OUR REFINEMENT OF CANADIAN PROPOSAL TEXT CONTAINED PARA 8 OF REFTEL B. HOWEVER, WE DOUBT THAT IT WILL PROVE MORE ATTRACTIVE. WE REQUEST AUTHORITY SOONEST TO ACCEPT CANADIAN PROPOSAL AS FALLBACK.

7. DEFICIENCIES OF CANADIAN TEXT--ASSUMING THAT ITS REFERENCE TO

"ARBITRARY" IS LOST--SEEM TO BE FOLLOWING. (A) "MEASURES IN THE INTEREST OF ITS NATIONAL ECONOMY" IS OPEN-ENDED CRITERION (ON WHICH CANADIANS UNFORTUNATELY FAILED TO CONSULT GROUP B). (B) DELETION OF "ARBITRARY" WOULD INVOLVE SOME SUBSTANTIVE LOSS, THOUGH WE BELIEVE CANADIANS ARE RIGHT IN SUGGESTING THAT EQUITABLE AND EQUAL TREATMENT PROVIDES MUCH OF WHAT A PROVISION AGAINST ARBITRARY TREATMENT WOULD. (C) SUBPARA (B) OF CANADIAN PROPOSAL CLEARLY CONFINES NON-DISCRIMINATION TO DISCRIMINATION AMONG FOREIGN CORPORATIONS, I.E., NEGATES NATIONAL TREATMENT AND, IN SO DOING. MEETS SENTIMENT EXPRESSED BY MEMBERS OTHER THAN EC-9 AND USG. HOWEVER, INSOFAR AS US COMPANIES ARE ASSURED OF NATIONAL TREATMENT BY TREATY, SUCH TREATMENT PRESUMABLY WOULD BE SAVED BY PARA C OF CANADIAN TEXT.

8. NATIONALIZATION: THERE WAS EXTENDED DEBATE ON NATIONALIZATION AND OBSERVANCE OF FOREIGN INVESTMENT AGREEMENTS, REPEATING THE FAMILIAR ARGUMENTS. PROGRESS WAS NEGLIGIBLE. CASTANEDA PLANS TO BEGIN BILATERAL AND OTHER INFORMAL NEGOTIATIONS TOMORROW IN EFFORT TO BREAK IMPASSE.

9. MFN - NON-DISCRIMINATION: DESPITE LENGTHY DEBATE, TEXTS UNDER CONSIDERATION FOR PARA 3 REMAIN SUBSTANTIALLY UNCHANGED. CHAIR (BRILLANTES) HAS PRODUCED FOLLOWING DRAFT TEXT 3 FOR PARA 19 COMBINING ELEMENTS OF SEVERAL PRIOR PROPOSALS WHICH ALL BUT GROUP D APPEAR TO FIND BASICALLY ACCEPTABLE. QUOTE STATES HAVE THE DUTY TO CO-EXIST IN TOLERANCE AND LIVE TOGETHER IN PEACE, IRRESPECTIVE OF DIFFERENCES IN POLITICAL, ECONOMIC, SOCIAL AND CULTURAL SYSTEMS, AND TO TAKE INTO ACCOUNT THE CHANGES THAT ARE OCCURRING IN THE WORLD IN THE ECONOMIC, POLITICAL AND TECHNOLOGICAL SPHERES. WITHOUT PREJUDICE TO GENERALIZED NON-DISCRIMINATORY AND NON-RECIPROCAL PREFERENCES IN FAVOR OF DEVELOPING COUNTRIES, INTERNATIONAL TRADE SHOULD BE CONDUCTED ON THE BASIS OF RECIPROCITY INSURING EQUIVALENCE OF ADVANTAGES AND OBLIGATIONS IN TRADING RELATIONS. ALL LIMITED OFFICIAL USE

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STATES HAVE THE DUTY TO FACILITATE TRADE BETWEEN COUNTRIES HAVING DIFFERENT ECONOMIC AND SOCIAL SYSTEMS. INTERNATIONAL TRADE SHOULD BE CONDUCTED ON THE BASIS OF MUTUAL ADVANTAGE AND EQUITABLE BENEFITS, AND MOST-FAVORED-NATION TREATMENT MAY BE GRANTED ON A VOLUNTARY BASIS THROUGH BILATERAL OR MULTILATERAL ARRANGEMENTS. UNQUOTE. INSTRUCTION REQUESTED: CAN WE ACCEPT FOREGOING?

10. TURNING TO PREAMBLE PARAGRAPH IV(B), GROUP ACCEPTED ALTERNATIVE 1 (PAGE 5 OF TD/B/AC.12/3). IN DEBATE ON PREAMBLE PARA VI BIS, GROUP D INSISTED UPON AND EC-9 REFUSED TO ACCEPT INCLUSION OF "PEACEFUL CO/EXISTENCE". FRG DEL (FOR EC-9) OFFERED FOLLOWING TEXT WHICH US DEL SUPPORTED: QUOTE: STRESSING THE IMPORTANCE OF HARMONIOUS ECONOMIC RELATIONS FOR STRENGTHENING THE PEACEFUL COOPERATION OF STATES WITH DIFFERENT SOCIAL AND ECONOMIC SYSTEMS. UNQUOTE

11. CHINESE DEL THEN INTRODUCED FOLLOWING DRAFT TEXT FOR PREAMBLE  
PARA VI BIS: " STRESSING THE IMPORTANCE OF THE ABOLISHMENT OF THE  
OLD UNREASONABLE INTERNATIONAL ECONOMIC RELATIONS AND THE ESTAB-  
LISHMENT OF A NEW INTERNATIONAL ECONOMIC ORDER." EC COMMISSION DEL  
INFORMED US SOME MEMBERS OF EC-9 ARE CONSIDERING FLOATING PART OF  
FOREGOING--I.E., "STRESSING THE IMPORTANCE OF ESTABLISHING A NEW  
INTERNATIONAL ECONOMIC ORDER," IN EFFORT TO ISOLATE GROUP D. WE  
ARE ENDEAVORING TO DISCOURAGE THIS EFFORT, WHICH SEEMS LIKELY  
MERELY TO SOMEWHAT UNDERCUT RESERVATIONS ENTERED IN SIXTH SPECIAL  
UNGA WITHOUT ACTUALLY ELIMINATING " PEACEFUL COEXISTENCE" ISSUE.  
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ACTION EB-11

INFO OCT-01 ARA-16 IO-14 ISO-00 SSO-00 NSC-07 SS-20 NSCE-00

INRE-00 OMB-01 TAR-02 SP-03 SWF-02 AGR-20 AID-20

CIAE-00 COME-00 INR-10 LAB-06 NSAE-00 OIC-04 RSC-01

SIL-01 STR-08 CIEP-02 CEA-02 DRC-01 FTC-01 AF-10

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TO SECSTATE WASHDC IMMEDIATE 2115

US TREASURY DEPT WASHDC

INFO USUN NEW YORK 691

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12. DEVELOPMENT ASSISTANCE: REVISED GROUP OF 8 TEXT PARA 13  
CIRCULATED IN NEGOTIATING GROUP. EC-9 AND USDEL STATED REVISED

TEXT DOES NOT IMPROVE ON ORIGINAL BUT AGREED DISCUSS BOTH TEXTS TOGETHER. US DEL MADE CLEAR "DUTY TO COOPERATE" AND REFERENCE TO POLITICAL OR MILITARY CONDITIONS NOT ACCEPTABLE AND URGED APPROPRIATE MODIFICATIONS IN TEXT. ALSO NOTED PHRASE "PROVIDING FAVORABLE EXTERNAL CONDITIONS" PROBLEMATIC. ON BEHALF EC-9, FRG PROPOSED GROUP ACCEPT PHRASE "WITH STRICT RESPECT FOR THE PRINCIPLE OF SOVEREIGN EQUALITY OF STATES", DROPPING OBJECTIONABLE SECOND LDC SENTENCE RELATING TO IMPOSITION OF CONDITIONS. HE DREW GROUP'S ATTENTION TO FACT THAT SOVEREIGN EQUALITY REFERENCE HAD BEEN ADVANCED AT FEBRUARY WG MEETING AS COMPROMISE TO MEET CONCERNS REGARDING IMPOSITION OF NOXIOUS CONDITIONS, BUT TO DO SO IN FORMULATION ACCEPTABLE TO ALL. FRG DEL ALSO INDICATED EC-9 LIMITED OFFICIAL USE

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WOULD HAVE LITTLE OR NO DIFFICULTY IN ACCEPTING PHRASE " PROVIDING FAVORABLE EXTERNAL CONDITIONS".

13. DRAWING ON BOTH ORIGINAL AND REVISED TEXTS, JAMAICA PROPOSED FOLLOWING COMPROMISE WORDING FOR PARA 13: "INTERNATIONAL COOPERATION FOR DEVELOPMENT IS THE SHARED GOAL OF ALL STATES. EVERY STATE SHOULD, WITH STRICT RESPECT TO THE PRINCIPLE OF SOVEREIGN EQUALITY OF STATES, COOPERATE WITH THE EFFORTS OF DEVELOPING COUNTRIES TO ACCELERATE THEIR ECONOMIC AND SOCIAL DEVELOPMENT BY PROVIDING FAVORABLE EXTERNAL CONDITIONS AND BY EXTENDING ACTIVE ASSISTANCE TO THEM." PAKISTAN PROPOSED SWITCHING CLAUSE ON SOVEREIGN EQUALITY TO END OF SECOND SENTENCE OF JAMAICA PROPOSAL AND RETENTION OF REFERENCE TO POLITICAL AND MILITARY CONDITIONS.

14. EVENTUALLY MEXICO PROPOSED, AS COMPROMISE, REPLACEMENT OF PHRASE "FREE OF ANY POLITICAL OR MILITARY CONDITIONS" BY "FREE OF ANY CONDITIONS IMPINGING UPON THEIR SOVEREIGNTY". EARLIER, CHAIRMAN HAD PROPOSED PHRASE "ON MUTUALLY ACCEPTABLE TERMS AND CONDITIONS" WHICH, HOWEVER, ONLY SUPPORTED BY US AND EC-9. GROUP AGREED TO STUDY TEXT WHICH NOW READS AS FOLLOWS: "INTERNATIONAL COOPERATION FOR DEVELOPMENT IS THE SHARED GOAL AND COMMON DUTY OF ALL STATES. EVERY STATE SHOULD COOPERATE WITH THE EFFORTS OF DEVELOPING COUNTRIES TO ACCELERATE THEIR ECONOMIC AND SOCIAL DEVELOPMENT BY PROVIDING FAVORABLE EXTERNAL CONDITIONS AND BY EXTENDING ACTIVE ASSISTANCE TO THEM, WITH STRICT RESPECT FOR THE PRINCIPLE OF SOVEREIGN EQUALITY OF STATES AND FREE OF ANY CONDITIONS IMPINGING UPON THEIR SOVEREIGNTY."

15. US DEL RECOGNIZES SWITCHING POSITION OF SOVEREIGN EQUALITY CLAUSE DISADVANTAGEOUS BUT EC-9 AND JAPAN DO NOT APPEAR INCLINED TO CONTEST IT. THEY ALSO SEEM UNBOTHERED BY PHRASE "PROVIDING FAVORABLE EXTERNAL CONDITIONS". US DEL PLANNING PROPOSE INSERTION OF "AND MUTUAL" BETWEEN "STRICT" AND "RESPECT" TO RESTORE SOME BALANCE BUT THIS PROBABLY WILL NOT BE ACCEPTABLE TO 77. WE ALSO PLAN REITERATE SUPPORT FOR CHAIRMAN'S PROPOSAL " ON MUTUALLY ACCEPTABLE TERMS AND CONDITIONS". FAILING THAT, WE PLAN

TO PROPOSE FOLLOWING LANGUAGE TO REPLACE WORDS: "FREE OF ANY POLITICAL OR MILITARY CONDITIONS": "AND CONSISTENT WITH THE OTHER PRINCIPLES ENUNCIATED IN CHAPTER I OF THIS CHARTER". REQUEST DEPARTMENT AUTHORITY TO ACCEPT TEXT CONTAINED PARA 14 ABOVE, ON ASSUMPTION WE UNABLE OBTAIN ACCEPTANCE THESE US AMENDMENTS. LIMITED OFFICIAL USE

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16. DEVELOPMENT ASSISTANCE: RE PARA 15, EC-9 HAVE AGREED ACCEPT FIRST SENTENCE ON CONDITION WORD "NET" DELETED, AND HAVE PROPOSED FOLLOWING ADDITIONAL SENTENCES TO REPLACE SECOND AND THIRD EXISTING SENTENCES: "DEVELOPING COUNTRIES AND OTHER COUNTRIES WITH THE CAPACITY TO PROVIDE RESOURCES SHOULD MAKE STRENUOUS EFFORTS TO ENSURE AN EFFECTIVE INCREASE OF OFFICIAL DEVELOPMENT ASSISTANCE AND TO ENCOURAGE THE FLOW OF PRIVATE RESOURCES TO DEVELOPING COUNTRIES IN ORDER TO REINFORCE THE EFFORTS OF THESE COUNTRIES TO ACCELERATE THEIR ECONOMIC AND SOCIAL PROGRESS. OFFICAL DEVELOPMENT ASSISTANCE SHOULD BE TRANSFERRED TO THE RECIPIENT DEVELOPING COUNTRIES UNDER FAVORABLE TERMS AND CONDITIONS IN CONFORMITY WITH THE PARTICULAR CIRCUMSTANCES OF EACH RECIPIENT COUNTRY OR GROUPS OF COUNTRIES."

17. PAKISTAN INSISTED ON INSERTING "DEVELOPED" BEFORE "COUNTRIES" IN FIRST SENTENCE OF PARA 15. YUGOSLAVIA AGREED AND PROPOSED SPLITTING SENTENCE INTO TWO, WITH FOLLOWING SECOND PART: "OTHER COUNTRIES WITH THE CAPACITY TO PROVIDE SUCH RESOURCES, TAKING INTO ACCOUNT THEIR DEVELOPMENTAL NEEDS, SHOULD AIM AT EXTENDING TRANSFER OF SUCH RESOURCES TO DEVELOPING COUNTRIES."

18. JAPANESE AMENDMENT (REFTEL B, PARA 17) TO FIRST SENTENCE RECEIVED NO SUPPORT AND US DEL HAD NO OPPORTUNITY TO INTRODUCE PROPOSED TEXT CONTAINED PARA 3 REFTEL.

19. IN VIEW ACCEPTANCE OF TERM "REAL RESOURCES" BOTH IN UNGA RES 3084 XXVIII (PARAS 8 AND 12, WHICH ADOPTED WITHOUT OBJECTION) AND DECLARATION OF TLATELOLCO, US DEL PROPOSES TO PURSUE FOLLOWING LINE:

A. ACCEPT FIRST SENTENCE AS NOW PROPOSED BY EC-9

B. AT APPROPRIATE TIME, PROMOTE LANGUAGE ALONG FOLLOWING LINES FOR SECOND SENTENCE: "DEVELOPED COUNTRIES AND OTHER COUNTRIES IN A POSITION TO PROVIDE DEVELOPMENT ASSISTANCE SHOULD SEEK TO PROVIDE INCREASED OFFICIAL DEVELOPMENT ASSISTANCE TO DEVELOPING COUNTRIES."

20. US DEL RECOGNIZES FOREGOING HAS ITS DRAWBACKS BUT, UNLESS WE ARE PREPARED TO MAKE THIS ISSUE ONE ON WHICH WE WILL DEFINITELY DISAGREE, WE DO NOT THINK WE CAN DO BETTER (IF THIS WELL). INSTRUCTION REQUESTED: ARE WE AUTHORIZED TO PROMOTE FOREGOING TEXT? LIMITED OFFICIAL USE

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21. MEXICAN TELEVISION AND PRESS HAS FEATURED EXTENSIVE COVERAGE OF  
USDEL VIEWS GIVEN IN REQUESTED INTERVIEWS. FRONT PAGE STORIES HAVE  
CARRIED US APPROACH TO CHARTER, ISSUES OF MNCS AND NATIONALIZATION,  
ETC.

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## Message Attributes

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